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§§ 571, 572, 574-582, 584-600, 602-607; Dec. Dig. § 157.\* 9 Va.-W. Va. Enc. Dig. 129.]

**6. Appeal and Error (§ 1050\*)—Harmless Error—Admission of Evidence.**—In an action against an executor, if the reading of the will in evidence was unnecessary and entailed a useless expense as claimed, it did not constitute a reversible error.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 1068, 1069, 4153-4157, 4166; Dec. Dig. § 1050.\* 1 Va.-W. Va. Enc. Dig. 592; 14 Va.-W. Va. Enc. Dig. 92; 15 Va.-W. Va. Enc. Dig. 68.]

**7. Appeal and Error (§ 1050\*)—Harmless Error—Admission of Evidence.**—In an action on a lessor's covenant to pay the value of a building erected by lessees as found by valuers to be appointed as therein provided in which judgment was recovered for the amount fixed by the valuers, the admission of evidence that defendant claimed to own the building and the admission of plaintiff's testimony as to the cost of the building and his estimate as to its value were harmless.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 1068, 1069, 4153-4157, 4166; Dec. Dig. § 1050.\* 1 Va.-W. Va. Enc. Dig. 592; 14 Va.-W. Va. Enc. Dig. 92; 15 Va.-W. Va. Enc. Dig. 68.]

Error to Law and Chancery Court of City of Norfolk.

Action by Ira B. White, suing in behalf of himself and another, against William Loyall Newton, surviving executor of George Newton, Judgment for plaintiff, and defendant brings error. Affirmed.

*Robert W. Tomlin*, of Norfolk, for plaintiff in error.

*J. Sidney Smith*, of Norfolk, for defendant in error.

REICHENSTEIN *v.* VIRGINIA RY. & POWER CO.

Jan. 15, 1914.

[80 S. E. 564.]

**1. Appeal and Error (§ 867\*)—Review—Allowance of New Trial.**—Under Acts 1891-92, c. 609, amending Code 1887, § 3484, so as to provide that, when any case at law is tried by a jury, and a party excepts to the judgment of the court in granting a new trial, the appellate court shall look first to the evidence and proceedings on the first trial, and, if it discovers that the court erred in setting aside the verdict, it shall set aside and annul all proceedings subsequent to the verdict, the appellate court, where a verdict for plaintiff was set aside, and a judgment on a second trial was rendered by the

\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

court for the defendant, must consider the evidence of the first trial alone.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3476-3486; Dec. Dig. § 867.\* 1 Va.-W. Va. Enc. Dig. 578; 14 Va.-W. Va. Enc. Dig. 90.]

**2. Street Railroads (§ 117\*)—Injury to Pedestrian—Contributory Negligence.**—In a personal injury action by one struck by a street car, where plaintiff testified that, when she reached the outside rail of the track, she stopped to see how she might cross the intervening space to the sidewalk, which was very muddy, and that she remained in that position for about two minutes until struck, it was improper to refuse to submit to the jury the question of concurrent negligence.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. §§ 239-257; Dec. Dig. § 117.\* 12 Va.-W. Va. Enc. Dig. 848; 14 Va.-W. Va. Enc. Dig. 967; 15 Va.-W. Va. Enc. Dig. 950.]

Error to Law and Chancery Court of City of Norfolk.

Action by Lily Reichenstein against the Virginia Railway & Power Company. There was a judgment for defendant, and plaintiff brings error. Affirmed.

*S. M. Brandt*, of Norfolk, for plaintiff in error.

*Andrew D. Christian*, of Richmond, *W. H. Venable*, of Norfolk, and *H. W. Anderson*, of Richmond, for defendant in error.

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MUTUAL LIFE INS. CO. OF NEW YORK *v.* BOARD, ETC.

Jan. 15, 1914.

[80 S. E. 565.]

**1. Corporations (§ 447\*)—Ultra Vires Contracts.**—Where the president, general manager, and principal incorporator of a corporation, to protect it and its creditors, procured a policy of insurance on his life for the benefit of the corporation which paid the premium, the contract of insurance was not ultra vires act on the part of the corporation.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 1786, 1788, 1807; Dec. Dig. § 447.\* 3 Va.-W. Va. Enc. Dig. 551.]

**2. Insurance (§ 116\*)—“Insurable Interest”—Corporation’s Interest in Officer’s Life.**—A corporation had an insurable interest in the life of its president, general manager, and principal incorporator, whose relation to and knowledge of its financial and manufacturing interests was such that his death could not fail to result in serious and substantial loss to its creditors, and others interested in its

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep’r Indexes.